84-4122 Ontario Municipal Board. 78th annual report
January 1, 1983 to December 31, 1983

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THE ONTARIO MUNICIPAL BOARD

78th ANNUAL REPORT

january 1, 1983 to december 31, 1983

April 30, 1984

The Honourable R. Roy McMurtry
Attorney General
Ministry of the Attorney General
18 King Street East
18th Floor
TORONTO, Ontario
M5C 1C5

Dear Mr. Attorney General:

We are pleased to submit to you, as required by section 100 of the Ontario Municipal Board Act, the Annual Report of the Board for the 1983 calendar year.

Henderson.

H.E. Stewart
Chairman

D.G. Henderson
Secretary and Chief
Administrative Officer

MEMBERS

As of December 31, 1983, there were 38 Members of the Board including the Chairman and Vice-Chairmen. Members are appointed by the Lieutenant Governor in Council and serve on a full-time basis and are based at the Board's offices in Toronto.

		Date of Appointment
H.E. STEWART	Chairman	April 1, 1974 Chairman - Sept. 1, 1979
A.H. ARRELL, Q.C.	Vice-Chairman	June 30, 1961 Vice-Chairman - June 30, 1961
W.H.J. THOMPSON, Q.C.	Vice-Chairman	July 1, 1966 Vice-Chairman - June 1, 1977
D.S. COLBOURNE	Vice-Chairman	September 3, 1968 Vice-Chairman - June 1, 1977
D.D. DIPLOCK, Q.C.	Vice-Chairman	July 1, 1977 Vice-Chairman - July 1, 1977
P.M. BROOKS	Vice-Chairman	November 1, 1973 Vice-Chairman - November 13, 1980
H.H. LANCASTER	Vice-Chairman	September 7, 1970 Vice-Chairman - June 30, 1981
D.H. McROBB	Vice-Chairman	January 3, 1978 Vice-Chairman - October 22, 1982
A.B. BALL	Member	January 1, 1974
C.G. EBERS, Q.C.	Member	August 12, 1974
H.W. KELLY, Q.C.	Member	September 3, 1974
J.A. WHELER	Member	September 3, 1974
E.A. SEABORN	Member	September 9, 1974
A.J.L. CHAPMAN, Q.C.	Member	September 10, 1974

		Date of Appointment
C.G. CHARRON, Q.C.	Member	February 1, 1975
K.D. BINDHARDT	Member	January 2, 1976
P.G. WILKES	Member	January 16, 1978
J.E. HENDY	Member	January 30, 1978
V.M. SINGER, Q.C.	Member	September 1, 1978
M.D. HENDERSON	Member	September 1, 1978
D.L. SANTO	Member	March 10, 1980
D.M. ROGERS, Q.C.	Member	March 10, 1980
T.F. BAINES, Q.C.	Member	March 17, 1980
J. WORRALL, Q.C.	Member	October 8, 1981
S.R. COLE	Member	October 8, 1981
G. CAMPBELL, Q.C.	Member	October 8, 1981
G.T. DOBBS	Member	October 8, 1981
G.M. HOBART	Member	October 8, 1981
D.W. MIDDLETON	Member	October 8, 1981
J.R. MILLS	Member	May 10, 1982
P.H. HOWDEN, Q.C.	Member	July 19, 1982
E.F. CROSSLAND	Member	November 1, 1982
G.A. HARRON	Member	December 1, 1982
M.A. ROSENBERG, Q.C.	Member	January 3, 1983
R.D.M. OWEN	Member	January 4, 1983
N.L. CHEESEMAN	Member	January 4, 1983
R.W. RODMAN	Member	March 14, 1983
G.I. THOMSON, Q.C.	Member	May 2, 1983

The Board wishes to acknowledge and emphasize the major contribution of A.L. McCrae and W.T. Shrives, Vice-Chairmen of the Board. Both Mr. McCrae, who was a Member of the Board for 24 years, and Mr. Shrives, who was a Member of the Board for 17 years, retired on December 31, 1982.

ADMINISTRATION

As of December 31, 1983, the Board had a staff complement of 79. The staff of the Board provide administrative and clerical services in connection with the processing of applications and appeals, the arrangement of hearings, and the preparation of Board orders and decisions.

The offices of the Board are located at 180 Dundas Street West, Toronto, M5G 1E5. (Telephone: 416/598-2266).

D.G. Henderson	Secretary and Chief Administrative Officer
B.C. Alty	Assistant Secretary and Administrative Officer
D.M. Stewart	Manager of Hearings
M.S. Manji	Manager of Capital Expenditures and Assessment Appeals
C. Saruyama	Supervisor of Planning Administration

1983

THE YEAR IN REVIEW

Introduction

1983 was a very significant year for the Ontario Municipal Board. Three major events impacted the Board's operation:

(a) the proclamation on January 1, 1983, of the Assessment Appeals Procedure Statute Law Amendment Act 1982, established a new assessment appeal process and transferred a backlog of approximately 67,000 complaints then outstanding before the county and district courts to this Board.

(b) the proclamation on July 15, 1983, of the Expropriations Amendment Act 1983, transferred all the functions of the Land Compensation Board to the Ontario Municipal Board.

(c) the proclamation on August 1, 1983, of the Planning Act, 1983, established new legislation and regulations dealing with municipal and provincial planning in Ontario.

Assessment Appeals

The Board has expended considerable effort in dealing with the backlog of assessment appeals assumed on January 1, 1983.

D.S. Colbourne, Vice-Chairman of the Board, was assigned the responsibility to oversee the new assessment appeals division. Six additional Board Members were appointed specifically to hear assessment appeals together with the present Members who still conduct hearings on many other types of matters. At the end of 1983, approximately 37 per cent of the total hearing days of Members were directed at assessment appeals.

The Board's mandate is to deal with the backlog of approximately 67,000 complaints within a three year period, and at the same time to ensure that no further backlog is created with new appeals made to the Board from decisions of the Assessment Review Board.

During the early part of 1983 staff were hired and trained and familiarized themselves with the newly developed procedures in order to deal with the enormous paper load coming from the county courts through the Assessment Review Board. To prepare and co-ordinate the documentation and information needed prior to appeals being scheduled for hearing required that the new staff expend considerable efforts, involving significant overtime, with the result that the processing of the backlog was underway and in full production during the last half of 1983. The early part of the year was also spent in familiarizing the new Board Members with the property assessment and hearing process.

At present membership and staff level and at current pace, the Board expects to meet the target of processing the backlog of assessment appeals within the three year period. Although the figure of 67,000 complaints is considerable, that figure can be misinterpreted in respect to the actual workload on assessment appeals in that:

(a) many of those complaints are duplicates in that they involve roll numbers related to one property which are under appeal for more than one year.

(b) individual hearings will deal with more than one complaint for the reason stated in (a). Also, a condominium building or a shopping centre each have a large number of complaints for one or more years, and they are considered together at the same hearing of the Board.

(c) because of the age of some of the appeals and change in ownership, many of the appeals are abandoned or withdrawn or are settled between the parties. The range in age is from 1974 to 1982.

(d) there are some issues common to a number of properties which are before the courts, which thereby precludes the Board from hearing a considerable number of appeals. An example of such issue is the assessment of condominiums in Mississauga. Once the issues are dealt with by the courts, hearings may not be necessary, but it will still require administrative processing and Board orders to deal with these appeals. A problem relates to the when and at what level decisions are made in the courts. If the matters are further appealed from the lower courts, this will involve considerable additional time, and thereby also require the appeal of further years by the owners.

This will, of course, duplicate the numbers of each of those future years and for those major issues may considerably increase the number of outstanding rolls.

The Board has been involved in numerous meetings and discussions with most of the practitioners and groups involved in assessment matters. The Board has requested their assistance in providing hearing ready lists of those complaints on which the parties are ready to proceed to hearing. Those lists which involve the majority of the backlog together with the selection of all single-family appeals are scheduled for hearing as a priority.

This has been moderately successful but, as already indicated, a considerable number of assessment appeals are the subject of withdrawals, requests for adjournment, or minutes of settlement, at the last minute, or on the day of the hearing. This results in unutilized hearing days for the Members. We continue to encourage those involved, solicitors, agents, assessors and others to minimize these actions and to attempt to negotiate settlements well in advance of the hearing date.

Land Compensation

The cross appointment of Members of the Ontario Municipal Board and the Land Compensation Board in October 1981, resulted in a partial integration of the land compensation process. This also resulted in a more efficient and flexible utilization of Members related to the hearing demands of the workload of each Board.

The proclamation of the Expropriations Amendment Act, 1983, on July 15, 1983, resulted in the transfer of all functions and staff of the Land Compensation Board to the Ontario Municipal Board and in the full integration of the land compensation function into this Board. The legislative changes affecting panel requirements have enabled the Board to be more responsive in arranging earlier hearings than was previously possible.

The Planning Act

The Planning Act, 1983, was proclaimed on August 1, 1983.

With the limited time which has elapsed since proclamation, it is too soon to enable anyone to define all of the implications and issues which the Ontario Municipal Board will face as a result of the new legislation.

The Board has been involved in meetings and discussions with various organizations in preparing for the impact of the new legislation. In addition, seminars have been held within the Board to familiarize Members and staff with the changes resulting from the new Act.

For the information of municipal officials and other practitioners in the planning process, and to clarify exactly what is required when forwarding appeals and referrals to the Board, new submission forms have been introduced for all types of applications under the new sections of the Planning Act. This will enable the Board to arrange for a hearing date more quickly by eliminating additional time required to obtain information or material on incomplete submissions.

The impact of the new legislation will become more evident over 1984 as the Board deals with matters under that legislation.

Conclusion

The Board's responsibilities and workload have been significantly impacted by events during 1983. The Board has expended considerable effort in assimilating its new responsibilities and in dealing with the major changes in legislation.

There has been a determined attempt to deal efficiently with all matters and to minimize the time between the date of submitting applications and hearing dates. A measure of our success in this regard is apparent in the increased requests for adjournments where parties are not prepared.

BOARD HEARINGS

YEAR	NUMBER OF HEARINGS		NUMBER OF FILES DEALT WITH AT HEARINGS	
1983	Planning and Municipal	1480	Planning and Municipal	1953
	Assessment Appeals	664	Assessment Appeals	2017
	Land Compensation	88	Land Compensation	98
	Consolidated Hearings	7	Consolidated Hearings	16
	TOTAL	2239	TOTAL	4084
1982		1682		2197
1981		1676		2308

When the Board holds a hearing, it is governed by the statute, under which an application is made, but it is also subject to the rules of natural justice (and the requirements of the Statutory Powers and Procedure Act).

The administration of justice could be said to be divided between the judicial arm of government (the courts) and the executive arm of which this Board is a branch. The courts operate under strict rules and interpret and follow statutes and precedents. Administrative boards, such as this Board, administer what is sometimes called 'discretionary justice' having a minimum of rules and a wide spectrum of discretion.

In matters of law and jurisdiction there is provision for appeal from decisions of the Board to the courts. In some of the matters dealt with by the Board there is a provision for appeal from the Board's decision to Cabinet by way of a petition to the Lieutenant Governor in Council.

Although two Members constitute a quorum for Ontario Municipal Board hearings, more than two Members can be assigned to a hearing as long as the number of Members is uneven. The Chairman has authority however to appoint only one Member to hear and decide on any application. This has been used with greater frequency in recent years because of the Board's workload.

It is the practice of the Board to conduct hearings in the area from which the application originated and generally the only hearings held by the Board in our offices in Toronto involve the Metropolitan Toronto area. As a result, a considerable amount of travel is incurred by the Members attending hearings in all areas of the province. Hearings not within reasonable commuting distance from Toronto are arranged on a weekly trip basis and do not involve daily travel from Toronto.

During 1983, the Board held 2239 hearings dealing with 4084 applications. This is a significant increase over previous years and reflects the increase in the number of Members appointed to the Board and the approach to handling assessment appeals. The number of days required for a hearing varies considerably from one application to another.

A recent survey indicated that hearings for planning matters took 47% of the Members' hearing time. Assessment appeals required 37%, land compensation required 12% and other matters required the remaining 4%. Assessment appeals, due to the volume of the backlog and the number received under the new appeal process, will continue to require a significant amount of the Board's hearing time.

BOARD ORDERS

YEAR	NUMBER OF ORDERS	NUMBER OF APPLICATIONS DEALT WITH IN ORDERS
1983	6162	6883
1982	5755	6564
1981	6279	6929

CABINET PETITIONS

YEAR	CARRIED OVER FROM PREVIOUS YEAR	*RECEIVED	CONFIRMED OMB DECISION	RESCINDED OMB DECISION	VARIED OMB DECISION	REQUIRED NEW HEARING	PETITION NOT PROCEEDED	CARRIED OVER TC NEXT YEAR
1983	43	95	54	2	18	1	16	47
1982	39	113	67	9	16	5	12	43
1981	65	100	64	14	26	4	18	39

*More than one petition is sometimes filed in relation to the same OMB decision.

APPLICATIONS, APPEALS AND REFERRALS

The following table shows the number of files for applications, appeals and referrals received in 1983 and a comparison with the previous two calendar years:

Type of Application, Appeal or Referral		1983	1982	1981
1.(a)	Restricted Area (Zoning) By-laws	1695	2002	2283
(b)	Appeals of Council's Refusal to Amend Zoning By-laws	100	103	109
2.(a)	Consent Appeals	405	427	---
(b)	Minor Variance Appeals	455	425	---
		860	852	1122
3.	Official Plans	125	192	208
4.	Plans of Subdivision	56	61	52
5.	Capital Expenditures of Municipalities & School Boards	1854	2254	2197
6.	Assessment Appeals	3572	607	406
7.	Land Compensation	69	82	122
8.	Miscellaneous	69	187	204
9.	Consolidated Hearings	4	11	1
	TOTAL	8404	6269	6582

FINANCIAL REPORT

REVENUE:

The Board has adopted, under section 99 of the Ontario Municipal Board Act, a tariff which establishes fees payable on various types of applications, appeals and referrals. The fees collected by the Board are paid to the Treasurer of Ontario.

The breakdown of fees for the 1983 calendar year is as follows:

Planning Matters	-	$282,790.00
Capital Expenditures	-	306,060.80
Assessment Appeals	-	158,540.00
Miscellaneous	-	27,131.20
TOTAL		$774,522.00

EXPENDITURE:

The Board's budget is provided within the estimates of the Ministry of the Attorney General on a fiscal year basis.

The following chart sets out the estimates for the 1982-83 and 1983-84 fiscal years:

ONTARIO MUNICIPAL BOARD

1982-83 and 1983-84 Estimates

(in $000's)

Account	1982-83 Estimates	1982-83 Actual	1983-84 Estimates	1983-84 Forecast (as of December 31, 1983)
Salary & Wages	3,415.3	3,094.4	4,523.5	3,745.6
Employee Benefits	539.4	435.0	777.1	595.7
Transportation & Communications	386.5	289.0	479.2	432.1
Services	463.6	222.5	173.8	125.0
Supplies & Equipment	239.5	267.7	110.4	110.0
Transfer Payments	4.0	4.0	4.0	4.0
Total Activity	5,048.3	4,312.6	6,068.0	5,012.4